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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,058	01/10/2002	Wayne T. Heverly	6911-3	6554

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EXAMINER

BOCHNA, DAVID

ART UNIT PAPER NUMBER

3679

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,058

Applicant(s)

HEVERLY, WAYNE T.

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 15-17 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 15-17 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11, 15-17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rea et al. in view of EPO Patent Application 1,156,253.

In regard to claims 11, 15-16 and 25, Rea et al. discloses a quick connect tubing assembly comprising:

a length of tube having two ends (the tube that is placed over portion 14a);
a tubular quick connect retainer sleeve 14e; and
a tubular quick connect retainer fitting 16 within and being integral with the tubular sleeve, the quick connect retainer comprising; a stepped circular interior 14c, a seal portion 14d and an elastomeric sealing ring 18a adapted to sealingly engage the male fitting 10, the ring fitting radially within the inside diameter of the seal portion 14d of the stepped circular interior and fitting axially against the shoulder 10e formed between the seal portion of the stepped interior and the seal retaining portion 16b of the stepped circular interior 14c, a plurality of inwardly extending resilient fingers 16m, the resilient fingers being adapted to retainingly and releasably engage a male fitting 10, an outwardly extending flange 16d extending from a first end thereof; and inwardly extending flange 16b extending from a second end thereof; and an intermediate wall portion 16a connecting the outwardly extending flange and the inwardly

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extending flange, the outwardly extending flange engaging a free end 14j of the tubular quick connect retainer sleeve. Rea discloses that the coupling is designed to provide a quick connect coupling having an improved sealing arrangement. However, Rea et al. does not disclose that the quick connect retainer sleeve is monolithically formed with a corrugated tubing. EPO Application '253 teaches integrally molding a quick connector retainer sleeve 61 directly to a length of corrugated tubing 14 so that the corrugated tube can be connected by only having to fix the resinous connector sleeve to a male fitting, thereby improving the efficiency of the pipe installation. Therefore it would have been obvious to a person having ordinary skill in the art to mold the quick connector retainer sleeve of Rea et al. directly to a length of tubing, as taught by EPO Application '253, in order to remove an installation step and decrease the time needed to assemble the quick connect tubing joint.

In regard to claim 17, the quick connect retainer inwardly extending flange 16b is formed of a plurality of discontinuous flange sections.

Response to Arguments

3. Applicant's arguments filed 12/20/04 have been fully considered but they are not persuasive. Applicant argues that Rea et al. in view of EPO Application '253 fails to anticipate the present application because Rea et al. in view of EPO Application '253 does not disclose or teach a monolithic tube assembly. Applicant points to the Merriam-Webster definition 2(a)-(b) of monolithic to support this argument. Specifically, Applicant argues that monolithic must mean "formed of a single crystal" or "cast as a single piece" and that the EPO application teaches a retainer sleeve integrally molded to a length of tubing or that the tube assembly is not formed in a single operation or cast, and therefore is not monolithic.

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The Examiner is maintaining the prior art rejection for two reasons. First, the Examiner believes that the Applicant's definition of "monolithic" is too narrow. Merriam-Webster definition 2(c) defines "monolithic" as "consisting of or constituting a single unit". The tubing and connector pictured in fig. 10 of EPO Application '253 is one single unit, and therefore monolithic according to Merriam-Webster definition 2(c).

Additionally, the applicant is arguing that the tubular quick connect sleeve of Rea et al. in view of EPO Application '253 has not be monolithically formed. However, this a product by process limitation and is given little patentable weight in an apparatus claim as long as the prior art contains all of the structural limitations recited by the present invention. Here, Rea et al. in view of EPO Application '253 contains all of the structural limitations recited by the Applicant, as explained in further detail above. Therefore, rejection of Rea et al. in view of EPO Application '253 has been maintained.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.


David Bochna
Primary Examiner
Art Unit 3679
March 3, 2005